

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554**

In the Matter of	)	
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
Petition of SBC Communications Inc	)	WC Docket No. 04-29
For Forbearance from the Application of	)	
Title II Common Carrier Regulation to	)	
IP Platform Services	)	

**REPLY COMMENTS**

**BELLSOUTH CORPORATION**

Theodore R. Kingsley  
Richard M. Sbaratta  
Stephen L. Earnest

Its Attorneys

Suite 4300  
675 West Peachtree Street, N. E.  
Atlanta, Georgia 30375-0001  
(404) 335-0720

Dated: July 14, 2004

## **TABLE OF CONTENTS**

<b>I.</b>	<b>INTRODUCTION AND SUMMARY.....</b>	<b>1</b>
<b>II.</b>	<b>THE COMMISSION SHOULD ASSUME A LEADERSHIP ROLE IN ENCOURAGING THE WIDESPREAD DEPLOYMENT OF IP-ENABLED SERVICES.....</b>	<b>3</b>
<b>III.</b>	<b>THE COMMISSION SHOULD REJECT DEMANDS TO PERPETUATE ASYMMETRICAL ECONOMIC REGULATION IN THE COMPETITIVE AND INNOVATIVE BROADBAND AND IP-ENABLED SERVICES MARKETS IN THE GUISE OF THE MCI “LAYERS” OR NCTA MODELS .....</b>	<b>8</b>
<b>IV.</b>	<b>REGARDLESS OF REGULATORY CLASSIFICATION, ALL IP-ENABLED SERVICES SHOULD BE ALLOWED TO DEVELOP WITHOUT ECONOMIC REGULATION .....</b>	<b>15</b>
	<b>A. The Commission Should Establish a Unified Inter-carrier Compensation Mechanism That Will Apply to All IP-Enabled Services That Use The PSTN ..</b>	<b>19</b>
	<b>1. The Commission should also allow for fraud prevention .....</b>	<b>23</b>
	<b>2. In the meantime, the Commission should enforce its existing rules.....</b>	<b>23</b>
	<b>B. All IP-Enabled Service Providers Should Have Identical Universal Service Funding Obligations .....</b>	<b>25</b>
<b>V.</b>	<b>COMPUTER INQUIRY RULES MUST NOT APPLY TO THE PROVISION OF IP-ENABLED SERVICES.....</b>	<b>26</b>
<b>VI.</b>	<b>MINIMALLY INTRUSIVE CALEA, E911, DISABILITIES ACCESS, CONSUMER PROTECTION, AND TRS OBLIGATIONS SHOULD APPLY TO VOIP SERVICES.....</b>	<b>30</b>
<b>VII.</b>	<b>THE COMMISSION SHOULD BE ESPECIALLY VIGILANT OF NETWORK SECURITY ISSUES AND ALLOW THE INDUSTRY TO CONTINUE TO REACH DEFINITIVE CONCLUSIONS ON INDUSTRY-WIDE SECURITY STANDARDS .....</b>	<b>33</b>
<b>VIII.</b>	<b>CONCLUSION .....</b>	<b>34</b>

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554**

In the Matter of	)	
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
Petition of SBC Communications Inc	)	WC Docket No. 04-29
For Forbearance from the Application of	)	
Title II Common Carrier Regulation to	)	
IP Platform Services	)	

**REPLY COMMENTS**

BellSouth Corporation, on behalf of itself and its wholly owned subsidiaries (“BellSouth”), replies to the comments filed in this proceeding.

**I. INTRODUCTION AND SUMMARY**

The comments show widespread agreement on the enormous potential of IP-enabled services to bring new, valuable, and efficient services to consumers, and on the need for a single, unified federal approach in order to sustain their continuing deployment. There is also widespread agreement that economic regulation is generally inappropriate for these new services, which are offered by numerous competitors over a host of intermodal platforms.<sup>1</sup> The dispute is really about whether a subset of IP providers – those that own broadband facilities – should be saddled with legacy economic regulation, even as they attempt to offer services in competition with the larger subset of IP providers who, the argument goes, should be free from all such regulatory oversight while at the same time receiving government mandated access to their

---

<sup>1</sup> See, e.g., Verizon Comments at 5-29; AT&T Comments at 15; CTIA – The Wireless Association™ (“CTIA”) Comments at 8-9; Level 3 Communications LLC (“Level 3”) Comments at 25-27; New Jersey Division of the Ratepayer Advocate (“NJDRA”) Comments at 8; Arizona Corporation Commission (“ACC”) Comments at 12-13; United States Telecom Association (“USTA”) Comments at 22-25; BellSouth Comments at 14-23.

competitors' facilities. The parties that argue for such market-distorting regulation – as exemplified by MCI's "layers" model – ignore this Commission's repeated findings that broadband transmission is competitive now, and likely to get even more competitive in the future.

In light of this competition, the Commission should assume its proper leadership role and reject demands to perpetuate or impose new economic regulation on providers of IP-enabled services at any level. In order to create a level playing field for all these providers, the Commission should use the "host of statutory tools" provided by Congress to structure a unified approach to IP-enabled services, which the Commission should define to include "any voice, data, video or other form of communication service provided by any type of communications provider (including telephone companies, cable companies, wireless providers, satellite companies, power line companies, ISPs, or any other type of entity) whereby some part of such service is originated or terminated by the customer in the Internet protocol and transported over an IP platform."<sup>2</sup> This unified approach should ensure that all providers of similar IP-enabled services would be treated alike regardless of who provides those services and whether the services qualify as information services or telecommunications services.

In light of proliferating applications, increased demand for Internet access, and augmented network capacity deployed across multiple broadband services platforms, including those of LECs, cable operators, direct broadcast satellite providers ("DBS"), video programming providers, wireless (including WiFi and CMRS) providers, and electric companies using power

---

<sup>2</sup> BellSouth Comments at 7.

lines, the Commission should decline to impose economic regulation on these services and further declare BOCs to be non-dominant in the provision of these services.

On the other hand, the Commission can and should take appropriate action to ensure that Congress's public interest objectives, including the availability of prompt emergency service to the public through the 911 system, access to communications by law enforcement officers acting under warrant, and maintenance of universal service, be maintained.

## **II. THE COMMISSION SHOULD ASSUME A LEADERSHIP ROLE IN ENCOURAGING THE WIDESPREAD DEPLOYMENT OF IP-ENABLED SERVICES**

A wide cross-section of commenters – including insurgent VoIP providers,<sup>3</sup> cable companies,<sup>4</sup> equipment manufacturers,<sup>5</sup> wireless providers,<sup>6</sup> traditional CLECs,<sup>7</sup> and incumbent LECs<sup>8</sup> – agree on a fundamental point: a single federal regime for the regulation (and, more to the point, non-regulation) of IP-enabled services is a basic prerequisite to IP technology bringing

---

<sup>3</sup> See, e.g., Vonage Comments at 14 (“The Commission needs to declare that IP-enabled services are interstate and subject to its jurisdiction before the states create a patchwork of conflicting common carrier regulation that stifles nascent IP-enabled services.”).

<sup>4</sup> See, e.g., Time Warner Inc. Comments at 26 (“For VoIP to prosper, regulation must be predictable and nationally uniform.”).

<sup>5</sup> See, e.g., Nortel Networks Comments at 13 (“Because VoIP has no geographic boundaries, the current interstate vs. intrastate structure does not work with VoIP. The current structure is creating jurisdictional conflicts that are slowing down the delivery of rich, new services that consumers will value and that will further reinvigorate the telecom sector.”); Lucent Technologies Inc. Comments at 6 (“Lucent feels strongly that there should be a single, national regulatory regime.”).

<sup>6</sup> See, e.g., Virgin Mobile USA, LLC (“Virgin Mobile”) Comments at 1 (“Virgin Mobile requests that the Commission . . . preempt state regulation . . .”).

<sup>7</sup> See, e.g., Pac-West Telecomm, Inc. (“Pac-West”) Comments at 14 (“Congress has given this Commission a specific mandate that effectively requires preemption of restrictive and inefficient state regulation.”).

<sup>8</sup> See, e.g., SBC Comments at 43 (“[T]he Commission should affirmatively preempt any state-level counterparts to [Title II common-carrier regulation] as irreconcilable with federal policy in this area, and should likewise make clear that any other state regulations that undermine the congressionally mandated policy of unregulation will be preempted.”).

the full measure of potential benefit to consumers. These commenters recognize that only the certainty and predictability created by a single national regulatory regime will permit IP-enabled services to flourish.

Even a coalition of state regulators from nine different states has filed comments urging that “[s]ound public policy argues strongly that any regulation of IP-enabled services such as VoIP occur uniformly.”<sup>9</sup> These state regulators forthrightly acknowledge that “IP-enabled services are typically ‘borderless’ and, thus, necessarily interstate in nature” and that “uniform national regulation over IP-enabled services would provide greater regulatory certainty than would a patchwork of fifty different state policies.”<sup>10</sup> In sum, in the words of these state officials, “VoIP, a technology that promises competitive alternatives for our consumers, should not be subject to political whim across numerous states and communities. A national policy – one that is deregulatory in nature and sends an unambiguous signal to the market that the U.S. is receptive to emerging communications technologies – is the best protection against inconsistent and burdensome state regulation.”<sup>11</sup> BellSouth agrees fully with this analysis, and applauds these state commissioners for advocating this legally sustainable and economically rational result.

Other state commission commenters, however, take a different position, and seek to preserve crazy-quilt state regulation of IP-enabled services. NARUC argues, for instance, that Congress has expressed an intent to preserve state regulation in this area, and that any attempt to preempt state authority would conflict with federal-court precedent.<sup>12</sup> These claims are

---

<sup>9</sup> Federation for Economically Rational Utility Policy (“FERUP”) Comments at 7.

<sup>10</sup> *Id.* at 7-8.

<sup>11</sup> *Id.* at 8.

<sup>12</sup> NARUC Comments at 10-12.

incorrect. First, far from preserving state regulation in this context, Congress has expressly established its policy to “preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal *or State* regulation.”<sup>13</sup>

More generally, established principles from cases decided both before and after the passage of the 1996 Act make clear that this Commission has the authority to preempt state regulation in cases such as this one. Just this year, the Commission explained that state commissions lacked authority to regulate one IP-enabled service, Pulver.com’s Free World Dial-Up. The Commission established there that, where the Commission determines that a service with interstate components should be free of economic regulation, all state attempts to impose such regulation were preempted: “*Any* state attempt to impose economic or other regulations that treat FWD like a telecommunications service would impermissibly interfere with the Commission’s valid interest in encouraging the further development of Internet applications such as these, unfettered by Federal or state regulations, and thus would be preempted.”<sup>14</sup>

More generally, the Commission explained there that Commission authority is *exclusive* unless that service is (1) “purely intrastate” or (2) it is “practically and economically possible to separate interstate and intrastate components of a jurisdictionally mixed information service without negating federal objectives for the interstate component.”<sup>15</sup> The fundamental problem for the commenters that support state regulation – a problem that they never come to grips with – is that IP-enabled technologies are neither purely intrastate nor can they be practically separated

---

<sup>13</sup> 47 U.S.C. § 230(b)(2) (emphasis added).

<sup>14</sup> *Petition for Declaratory Ruling that pulver.com’s Free World Dialup is Neither Telecommunications Nor a Telecommunications Service*, WC Docket No. 03-45, *Memorandum Opinion and Order*, 19 FCC Rcd 3307, 3320, n.70 (2004) (emphasis added) (“*Pulver Declaratory Ruling*”).

<sup>15</sup> *Id.* ¶ 20.

into interstate and intrastate components. Thus, for instance, in arguing for preserving state regulation of IP-enabled services, the New York State Department of Public Service (“NYDPS”) can only assert that it would be “premature” to conclude that it would be impossible for state regulation to coexist with a federal policy of deregulation of IP-enabled services.<sup>16</sup> But there is nothing premature about it. As the Commission stated in the *NPRM*, Internet communications “defy jurisdictional boundaries” because packets are “routed across a global network with multiple access points.”<sup>17</sup> Moreover, as BellSouth and other commenters have explained,<sup>18</sup> because IP-enabled services are geographically portable, it is often not possible to know the geographic end-points of a particular communication. Even beyond this, it is not feasible to market separate intrastate and interstate IP-enabled services, because no consumer would be interested in such products.<sup>19</sup> In such a context, any state attempt to regulate IP-enabled services would *necessarily* negate the federal policy of deregulation of those services. Contrary to NARUC’s argument, consistent federal-court precedent supports the conclusion that, in such circumstances, this Commission’s statutory authority over interstate services supports its decision to preempt contrary state regulations – such as regulations imposing economic regulation in a sphere that the Commission has determined should be free of such regulations.<sup>20</sup>

---

<sup>16</sup> NYDPS Comments at 9.

<sup>17</sup> *IP-Enabled Services*, WC Docket No. 04-36, *Notice of Proposed Rulemaking*, 19 FCC Rcd 4863, 4867, ¶ 4 (2004) (“*NPRM*”).

<sup>18</sup> BellSouth Comments at 34-35; SBC Comments at 32-33.

<sup>19</sup> See *Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards*, CC Docket No. 90-623, *Report and Order*, 6 FCC Rcd 7571, 7633-34, ¶ 126 (finding that exclusive federal authority is appropriate in such circumstances) (“*Computer III Remand Order*”).

<sup>20</sup> See, e.g., *Louisiana Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 375 n.4 (1986); *Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523 (8th Cir. 1998); *California v. FCC*, 905 F.2d 1217 (9th Cir. 1990); *Illinois Bell Tel. Co. v. FCC*, 883 F.2d 104 (D.C. Cir. 1989).



For these reasons, even where a particular IP-enabled service is not portable, Commission precedent establishes that exclusive federal authority is appropriate. In particular, in the *GTE Tariff Order*, the Commission determined that the same broadband transmission that supports IP-enabled services is subject to exclusive federal authority under the “mixed use” doctrine applicable where more than 10% of the traffic on a facility is interstate.<sup>21</sup> As the Commission explained, because these services were subject to exclusive federal authority under the mixed use doctrine, it was unnecessary to determine whether state regulation was also preempted on other grounds: “In light of our finding that GTE’s ADSL service is subject to federal jurisdiction under the Commission’s mixed use facilities rule and properly tariffed as an interstate service, we need not reach the question of whether the inseverability doctrine applies.”<sup>22</sup> This mixed-use rule is established commission precedent, and there is no reason not to apply it here to the same broadband transmission at issue in the *GTE Tariff Order* as well as to applications that are bundled with such transmission, particularly in light of the extremely deleterious policy consequences of imposing 51 different regulatory regimes on competitive IP-enabled services.

In this regard, contrary to some commenters’ arguments,<sup>23</sup> it is not relevant whether some IP-enabled services are properly understood to be telecommunications services. States have no guarantee of jurisdiction over all telecommunications services. For instance, the special access services at issue in the *GTE Tariff Order* are telecommunications services, but the Commission properly applied its “mixed use” doctrine to determine that they are subject to federal, not state, authority.

---

<sup>21</sup> *GTE Telephone Operating Cos.; GTOC Tariff No. 1; GTOC Transmittal No. 1148*, CC Docket No. 98-79, *Memorandum Opinion and Order*, 13 FCC Rcd 22466, 22479-80, ¶¶ 23-26 (1998) (“*GTE Tariff Order*”).

<sup>22</sup> *Id.* at 22481, ¶ 28.

<sup>23</sup> See Ohio Public Utilities Commission (“Ohio PUC”) Comments at 15-16.

In sum, both established precedent and sound policy compel the Commission to establish its exclusive jurisdiction over IP-enabled services.

**III. THE COMMISSION SHOULD REJECT DEMANDS TO PERPETUATE ASYMMETRICAL ECONOMIC REGULATION IN THE COMPETITIVE AND INNOVATIVE BROADBAND AND IP-ENABLED SERVICES MARKETS IN THE GUISE OF THE MCI “LAYERS” OR NCTA MODELS**

IP-enabled services and networks constitute a significant challenge to regulatory approaches that were developed long before the 1996 overhaul of the Communications Act of 1934. They challenge the traditional regulatory “silos” that reflect the service-specific chapters of the Communications Act as it was revised in the years leading up to 1996. Many commenters argue that the existence of this disruptive technology that can be provided over a variety of facilities platforms argues for a new paradigm of regulatory oversight. There are two distinct camps, however. First, there are those commenters who demonstrate, on a demonstrated record of robust inter-modal competition and growth in broadband and IP-enabled services and markets, that the same deregulatory rules should apply to all providers of IP-enabled services.<sup>24</sup> Second, there are those who eschew fact and contend, based on nothing more than tired rhetoric, that their facilities-based competitors should be saddled with legacy economic regulation developed when AT&T owned a monolithic local and long distance telephone and telegraph network empire and there were relatively few entrants in the market for enhanced services.<sup>25</sup> In accord with congressional intent, the Commission must reject attempts to perpetuate or impose unwarranted asymmetrical regulation on facilities-based providers (the so-called “physical” layer).<sup>26</sup>

---

<sup>24</sup> See, e.g., BellSouth Comments at 10-25; Avaya Inc. Comments at 10-12; USTA Comments at 21-33.

<sup>25</sup> See, e.g., CompTel/ASCENT Comments at 13-15, 17; Cbeyond Communications, LLC, *et al.* (“Cbeyond”) Comments at 13.

<sup>26</sup> See, e.g., MCI Comments at 13-20; Association for Local Telecommunications Services (“ALTS”) Comments at 2-4; Dialpad Communications, Inc. *et al.* (“Dialpad”) Comments at 17.

In this regard, the Fact Report submitted in this proceeding<sup>27</sup> supports Commissioner Martin's conclusions and observations with respect to the competitive nature of the facilities that are used to provision IP-enabled services:

[T]he growth of cable broadband and DSL lines has resulted in fierce competition between these services, with cable still significantly ahead of its telco competitor. In each quarter for the last 4 years, 2/3 of new subscribers have gone to cable broadband. Cable currently has 65% of broadband subscribers. This vibrant competition is what enabled the Commission to deregulate the provision of DSL without risking an increase in DSL prices. Last year, when we deregulated Broadband and eliminated Line-Sharing many here and some at the Commission argued that DSL prices would rise. But, since February of 2002, prices of DSL have dropped about 40%.

....

... The 1996 Act has been successful in many areas. We have learned that where competition is vibrant, regulation is not necessary. This is why we have been able to deregulate broadband and still enjoy better service at lower rates.<sup>28</sup>

Indeed, the record compiled in the *Triennial Review* proceeding compelled the Circuit Court of Appeals to observe:

[W]e agree with the Commission that robust intermodal competition from cable providers – the existence of which is supported by very strong record evidence, including cable's maintenance of a broadband market share on the order of 60%, see *Order P.292* – means that even if all CLECs were driven from the broadband market, mass market consumers will still have the benefits of competition between cable providers and ILECs.<sup>29</sup>

Broadband services are, of course, being offered by more than just cable companies and telephone companies. As the Commission has previously observed:

---

<sup>27</sup> Peter W. Huber & Evan Leo, Competition in the Provision of Voice Over IP and Other IP-Enabled Services, Prepared for and Submitted by BellSouth, Qwest, SBC, and Verizon, WC Docket No. 04-36, May 28, 2004 ("Fact Report").

<sup>28</sup> Kevin J. Martin, Commissioner, Federal Communications Commission, remarks before the NARUC Conference, Committee on Telecommunications, Washington, D.C. (Mar. 8, 2004).

<sup>29</sup> *United States Telecom Ass'n v. FCC*, 359 F.3d 554, 582 (D.C. Cir. 2004) ("*USTA IP*").

An increasing number of broadband firms and technologies are providing growing competition to incumbent LECs and incumbent cable companies, apparently limiting the threat that they will be able to preclude competition in the provision of broadband services.<sup>30</sup>

This prompted the Commission to conclude that:

The record before us, which shows a continuing increase in consumer broadband choices within and among the various delivery technologies – xDSL, cable modems, satellite, fixed wireless, and mobile wireless, suggests that no group of firms or technology will likely be able to dominate the provision of broadband services.<sup>31</sup>

The comments and Fact Report demonstrate that the Commission’s conclusion remains correct. At least eight fixed wireless providers as well as the nation’s largest electric utilities and satellite providers are providing broadband communications services to consumers and small businesses at competitive prices, and there is widespread broadband competition in the large business enterprise market.<sup>32</sup> The Wireless Internet Service Providers Association states that “[w]ireless ISPs have rolled out broadband service in virtually every state of the union – and in hundreds of rural and metropolitan markets . . . . *Wireless has boldly become the nation’s third pipe for last-mile access.*”<sup>33</sup> There is also yet another “pipe,” for broadband transmission, for, according to Chairman Powell, “Broadband over Power Line [BPL] has the potential to provide

---

<sup>30</sup> *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission’s Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, CC Docket No. 92-297, *Third Report and Order and Memorandum Opinion and Order*, 15 FCC Rcd 11857, 11864, ¶ 18 (2000). The abundance of intermodal competition will spur even greater competition in the broadband market as the emergence of new technologies increases, which will enable multiple competitors to use the same general technology to provide services.

<sup>31</sup> *Id.* at 11865, ¶ 19.

<sup>32</sup> BellSouth Comments at 20-23.

<sup>33</sup> Fact Report at A-10 (emphasis added). See pages A9-13 of the Fact Report for a detailed account of current fixed wireless broadband service offerings.

consumers with a ubiquitous third broadband pipe to the home.”<sup>34</sup> With one third of electric utility companies considering or already using BPL, with BPL reaching approximately one million customers by this year’s end, with BPL encompassing six million power lines and generating potentially \$3.5 *billion* in revenues, and with BPL speed comparable to or faster than cable or DSL and prices comparable to or lower than cable or DSL,<sup>35</sup> it is clear that BPL represents a formidable fourth pipe alternative, while satellite and third generation (3-G) wireless networks represent yet additional “pipes.”<sup>36</sup>

Thus, the Commission should reject calls for economic regulation based on ill-founded notions of broadband bottlenecks. In the first case, the market leaders in broadband access, cable companies, are in fierce competition with telephone companies. As BellSouth demonstrated in its comments, and setting any competitive offerings from fixed wireless, BPL, satellite or 3-G wireless aside, cable modem broadband Internet access service is offered by one or more of at least nine different cable providers in 60 out of 64 of BellSouth’s MSAs.<sup>37</sup> And this state of competition is not confined to the southeastern markets; according to the latest FCC High Speed Report, 92% of zip codes in California have two or more high-speed providers.<sup>38</sup> JP Morgan has estimated that, as of December 2003, 75% of all U.S. households were able to choose between

---

<sup>34</sup> *Id.* at A-13. *See id.* at A13-16 for a detailed account of current BPL service offerings.

<sup>35</sup> *Id.* at A14-16.

<sup>36</sup> *Id.* at A16-19.

<sup>37</sup> BellSouth Comments at 20, n.73.

<sup>38</sup> Ind. Anal. & Tech. Div., Wireline Competition Bureau, FCC, *High-Speed Services for Internet Access: Status as of December 31, 2003* at Table 13 (June 2004). In some cases one of the two providers is a CLEC, Covad Communications.

cable modem and DSL service, and only 5% of all U.S. households were able to receive DSL but not cable modem service.<sup>39</sup>

Thus, there is simply no justification in fact or law to impose economic regulation on the “physical layer” as MCI and other advocates of that particular model advocate.<sup>40</sup> The MCI model simply seeks to impose old regulation in a new, competitive market, and therefore will discourage innovation and investment, a reality confirmed by the comments of equipment manufacturers: “The application of traditional voice regulations to VoIP – and IP-enabled services – would stifle innovation and restrict economic growth.”<sup>41</sup> As the Computing Technology Industry Association (“CompTIA”) notes, the economy will be favorably impacted by VoIP, which will (as the Commission itself noted in its *NPRM*) provide consumers with incentives to subscribe to broadband services.<sup>42</sup> The comments of communications and computing equipment manufacturers relative to the economic consequences of legacy economic regulation are especially pertinent and reliable, because “[f]irms that sell goods and services that are *inputs* to the production and use” of new services “stand to gain an expanding market . . . and

---

<sup>39</sup> J. Bazinet, *et al.*, JP Morgan, *Broadband 2003* at Figure 9 (Dec. 5, 2002). *See also* Kevin J. Martin, Commissioner, FCC, *FCC: Looking Forward*, presentation before the NARUC Telecommunications Committee at 11 (July 28, 2003) (citing JP Morgan). There are no true broadband monopolies or duopolies. And even if, for the sake of argument, there was at one time a true broadband duopoly, it has been eroded by fixed wireless, BPL, satellite and 3-G wireless competitors. At one time the wireless market itself was characterized as a duopoly, yet the industry’s relative scant federal regulation, freedom from state pricing and entry regulation, and eventual explosion of spectrum availability has resulted in widespread competition, falling prices and ever-increasing substitution for POTS. *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 02-379, *Eighth Report*, 18 FCC Rcd 14783 (2003).

<sup>40</sup> If market power exists at all in MCI’s model, as Verizon points out, it is at the level of the Internet backbone, “where well-entrenched companies, including MCI, manage a vast network of transmission facilities facing little or no competition.” Verizon Comments at 20.

<sup>41</sup> Nortel Networks Comments at 9; *see also* Alcatel North America (“Alcatel”) Comments at 20-21; 23.

<sup>42</sup> CompTIA Comments at 17-18.

have the incentive to make a completely unbiased judgment on the matter.”<sup>43</sup> The economy will suffer under the MCI layers/competitive bias approach, because it is simply a wolf in sheep’s clothing.

“Up, down, across,” observes Dr. Brough, “[the MCI Layers model] is still regulation.”<sup>44</sup> As the authors of a recent NMRC analysis point out, MCI’s “layers” approach is a “seductive analytical tool that “is burdened with the same regulatory traps of current law.”<sup>45</sup> The most egregious deficiencies in the MCI model are summarized by the NMRC:

- (1) the model simplifies complex network interconnections;
- (2) the model transfers the current regulatory model for traditional telecom networks to future broadband networks;
- (3) the model does not work economically and discourages technological innovation and network investment; and
- (4) the model ignores the benefits that vertical integration can provide for the industry and consumers.<sup>46</sup>

MCI’s model is being used to rationalize in theory the perpetuation of discredited, outdated, unnecessary and inefficient economic regulation on Bell Operating Company (“BOC”) ILECs in particular, and on all facilities-based providers in general. Facilities owners, particularly “last mile” providers, alone would be required to pay into the universal service fund, would not be able to charge for access to their facilities, and would be subject to *Computer*

---

<sup>43</sup> *United States v. Western Elec. Co.*, 993 F.2d 1572, 1582 (D.C. Cir. 1993).

<sup>44</sup> Wayne T. Brough, “Up, Down, Across – It’s Still Regulation,” in *Free Ride: Deficiencies of the MCI “Layers” Policy Model and the Need for Principles that Encourage Competition in the New IP World*, New Millennium Research Council (“NMRC”) (July 2004) at 4, available at [www.newmillenniumresearch.org/news/071304\\_report.pdf](http://www.newmillenniumresearch.org/news/071304_report.pdf).

<sup>45</sup> *Id.* at vi.

<sup>46</sup> *Id.* at vii.

*Inquiry* unbundling requirements. Such a result would tilt the playing field upward in favor of the entities operating in the low cost, low risk, and highly profitable “applications layer,” and against those entities in a position to create new and innovative advanced networks capable of facilitating even greater communications capabilities.

While clearly aimed at BOCs, nothing limits this approach from being applied to other non-BOC ILECs, to power companies with broadband transmission lines, to cable companies, and to wireless companies in light of spectrum scarcity. This is precisely the wrong approach to take in the current competitive state of the broadband and IP-enabled services markets. For all these reasons, BellSouth agrees with Verizon and others that the so-called “physical layer” should be just as free of economic regulation as the “application” or “content” layers.<sup>47</sup>

The model advocated by NCTA contains similar flaws as it advocates freedom from legacy regulation for all but incumbent LECs.<sup>48</sup> It makes no sense to perpetuate legacy economic regulation on the non-dominant provider of broadband services, especially in favor of the dominant provider of those services. Further, it is not clear what corresponding obligations VoIP service providers would have in connection with the “rights” that NCTA proposes that they have. While BellSouth agrees generally with NCTA that the particular path taken with respect to VoIP is not as important as reaching the correct end result, it isn’t clear to BellSouth that NCTA’s end goal is true deregulatory parity, in that it appears once again that one subset of IP-enabled service providers would have more regulatory obligations than others. In this regard, certain rights reserved by statute to telecommunications service providers, which are balanced by corresponding obligations, need not necessarily be extended to IP-enabled information service

---

<sup>47</sup> Verizon Comments at 21.

<sup>48</sup> National Cable & Telecommunications Association (“NCTA”) Comments at 20 (freedom from legacy regulation limited to VoIP service provided in competition with incumbent utility phone service).



providers. These providers can seek to become certified local exchange carriers, or partner or team with another certified LEC, in order to obtain interconnection, telephone numbers and other inputs they might desire. To be sure, the Commission has a long established set of procedures that all entities must follow in order to access the PSTN and provide telecommunications services to end users. The Commission should not create new category rules or procedures for IP enabled information service providers.

#### **IV. REGARDLESS OF REGULATORY CLASSIFICATION, ALL IP-ENABLED SERVICES SHOULD BE ALLOWED TO DEVELOP WITHOUT ECONOMIC REGULATION**

The 1996 Act mandates a federal, deregulatory approach to all interstate telecommunications regulation and further clarifies that all information services have a telecommunications component. Thus, whether the provision of an IP-enabled service is a “telecommunications service” under current regulatory classifications, as BellSouth contends some may be,<sup>49</sup> and as some commenters insist all VoIP services are,<sup>50</sup> or whether it is an “information service,” as BellSouth maintains most IP-enabled services are, and as others insist all IP-enabled services of any stripe are,<sup>51</sup> Congress has instructed the FCC to rely upon the power of the market, not regulatory fiat, in order to encourage the growth and deployment of new and advanced services to all Americans.<sup>52</sup>

---

<sup>49</sup> See also USTA Comments at 19-21.

<sup>50</sup> See, e.g., City and County of San Francisco Comments at 3; Inclusive Technologies Comments at 2-3; Interstate Telcom Consulting, Inc. Comments at 2-3; Communications Workers of America (“CWA”) Comments at 6-10; National Association of State Utility Consumer Advocates (“NASUCA”) Comments at 57.

<sup>51</sup> See, e.g., MCI Comments at 21-23; Qwest Comments at 14-19; SBC Comments at 33-36.

<sup>52</sup> See § 706 of the Telecommunications Act of 1996, Pub. L. 104-104, Title VII, Feb. 8, 1996, 110 Stat. 153, reproduced in the notes under 47 USC § 157 (the Commission “shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans”); 47 U.S.C. § 230(b) (it is the policy of the United States “to preserve the vibrant and competitive free market that presently exists for the Internet and other

The fundamental point is that the regulatory classification of IP-enabled services as information services or telecommunications services shouldn't matter – competing IP-enabled services should be treated the same, with no economic regulation.<sup>53</sup> Alcatel correctly urges the FCC to eliminate disparities between IP-enabled services based on legacy rules or the specific platforms used to provide IP-enabled services.<sup>54</sup> As USTA explains:

The Commission should ensure that all providers of IP-enabled services have the same regulatory obligation, regardless of the technology or transmission media they use.

....

...[T]he FCC itself has recently recognized the anti-competitive effects of such asymmetrical regulation, and in particular how such rules encourage companies to compete not on the merits, but through arbitrage and regulatory gamesmanship.

....

All these precedents establish that competition on the merits is best served, and arbitrage best avoided, when the FCC adopts even-handed rules that treat like services alike regardless of transmission media or legacy regulation.<sup>55</sup>

Certain categories of IP-enabled services, especially voice over Internet protocol (“VoIP”) or similar services using or terminating voice traffic to North American Numbering Plan (“NANP”)/PSTN telephone numbers, should not only be treated as interstate in nature and subject to the Commission’s exclusive jurisdiction, but also subject to universal service fund funding obligations without double taxation or assessment at the facility level; appropriate E911

---

interactive computer services, unfettered by Federal or State regulation”); 47 U.S.C. § 160(a), (b).

<sup>53</sup> This should be true even if the service is used as a substitute for POTS. If a service meets the definition of an IP-enabled telecommunication or information service, it should not be saddled with Title II regulation simply because it acts as a substitute for traditional POTS.

<sup>54</sup> Alcatel North America Comments at 20-22; *see also* America’s Rural Consortium Comments at 4-5.

<sup>55</sup> USTA Comments at 10-14.

and disabilities access obligations; and CALEA-like accommodations where shown by industry collaborations to be technically and economically reasonably achievable.<sup>56</sup>

Because the Commission has the authority to establish a rational, even-handed regulatory scheme regardless of whether particular IP-enabled services are telecommunications services or information services,<sup>57</sup> it should make clear that regardless of regulatory classification, the proper pro-competitive result will follow. Such a result will provide regulatory clarity and prevent the Commission from becoming bogged down in a pragmatically pointless discussion of appropriate regulatory classifications.

The fundamental point is that this new generation of advanced communications services and the broadband networks associated with them should be free from economic regulation, regardless of what kind of entity provides them. The Commission has the legal authority to create such a deregulatory scheme for all IP-enabled services. To the extent that Title II/common carrier based economic regulation may otherwise attach to IP-enabled services, the Commission must exercise its forbearance and waiver authority to prevent these services from being subjected to economic regulation.

By the same token, because the Commission has ample legal authority to require that all similarly situated carriers pay the same access charges and universal service fees,<sup>58</sup> the Commission has no valid reason not to do so. In particular, equitable PSTN compensation and universal service funding solutions should be achieved that will eliminate current distortions and

---

<sup>56</sup> See, e.g., CWA Comments at 16-24; GVNW Consulting, Inc. (“GVNW”) Comments at 7-9; NASUCA Comments at 47-57, 63-67; NCTA Comments at 16-19; Time Warner Inc. Comments at 11-16.

<sup>57</sup> BellSouth Comments at 25-36; Time Warner Inc. Comments at 21-25; NCTA Comments at 45.

<sup>58</sup> BellSouth Comments at 44-49.

opportunities for arbitrage and significantly reduce, if not eliminate, incentives for arbitrage in the future.

Commenters such as MCI contend that the Commission's Title I authority is not sufficient to authorize the imposition of access charge (and universal service) obligations on information services that compete with telecommunications services.<sup>59</sup> That is incorrect. The Commission's long-standing assertion of jurisdiction over information services has been affirmed by the D.C. Circuit as "reasonably ancillary" to the Commission's responsibility to "assure a nationwide system of wire communications services at reasonable prices."<sup>60</sup> Indeed, the Commission's decision to exempt information services from access charges necessarily indicates that it would have the authority to impose those obligations where appropriate.<sup>61</sup> Moreover, contrary to MCI's argument, the fact that Congress did nothing to undermine the Commission's assertion of authority over information services when it passed the 1996 Act confirms that the Commission's decisions accord with statutory principles.

Even more to the point for present purposes, the Supreme Court has made plain that Title I is appropriately used to ensure even-handed treatment of new services with services that fall within the Commission's traditional regulatory authority.<sup>62</sup> And it cannot seriously be disputed that regulation to ensure that a subset of competing users of the PSTN (telecommunications carriers) do not bear a disproportionate share of the costs of maintaining that network is thus reasonably ancillary to the Commission's duty to ensure "rapid, efficient, Nation-wide and

---

<sup>59</sup> See MCI Comments at 24.

<sup>60</sup> *Computer & Communications Indus. Ass'n v. FCC*, 693 F.2d 198, 213 (D.C. Cir. 1982).

<sup>61</sup> See, e.g., *Access Charge Reform, et al.*, CC Docket Nos. 96-262, *et al.*, *First Report and Order*, 12 FCC Rcd 15982, 16132-33, ¶ 343 (1997) ("*Access Charge Reform Order*").

<sup>62</sup> *United States v. Southwestern Cable Co.*, 392 U.S. 157, 178 (1968).

world-wide wire and radio communications service *with adequate facilities at reasonable charges.*”<sup>63</sup>

In this regard, BellSouth is not arguing that the Commission could impose any regulation it desires on any information service regardless of whether that is ancillary to a statutory purpose.<sup>64</sup> That is not the issue. The real question is whether the Commission has authority to impose the same compensation rules (and other requirement such as 911) on IP-enabled services that compete with telecommunications services providers and use the PSTN in an analogous manner. Under the federal court decisions that BellSouth discussed above and in BellSouth’s opening comments (at 29-32, 45-46), it assuredly does have the authority. Indeed, even MCI concedes that “[t]o the extent that some [IP-enabled] voice applications have begun to compete directly with traditional telephone service, so that users of those voice applications may use those applications and not traditional telephone service, the Commission may have the authority to impose E911 requirements.”<sup>65</sup> By the same reasoning, when IP-enabled services use the PSTN in the same way as traditional IXCs, the Commission has authority to impose access charges (and universal service obligations) on those carriers just as it does on other providers in order to further established statutory goals.

**A. The Commission Should Establish a Unified Inter-carrier Compensation Mechanism That Will Apply to All IP-Enabled Services That Use the PSTN**

There is widespread support for the Commission’s observation that: “As a policy matter, we believe that any service provider that sends traffic to the PSTN should be subject to similar compensation obligations, irrespective of whether the traffic originates on the PSTN, on an IP network, or on a cable network. We maintain that the cost of the PSTN should be borne

---

<sup>63</sup> 47 U.S.C. § 151 (emphasis added).

<sup>64</sup> See MCI Comments at 33.

<sup>65</sup> *Id.* at 34-35.

equitably among those that use it in similar ways.”<sup>66</sup> A large number of commenters agree that if IP-enabled services use the PSTN and require a LEC to use its switches and other facilities to terminate a call that starts on an IP network (or to originate a call that is then handed over to an IP network), the LEC should be compensated through access charges (or any future mechanism) just as it is compensated for performing the same functions to originate or terminate other interstate communications.<sup>67</sup> Any government mandate or policy that allows some carriers to avoid access charges because of the technology they use would therefore deprive LECs of the use of, and appropriate compensation for, their property.

Indeed, even AT&T itself acknowledges that the “Commission should not pick winners and losers” by applying different regulatory rules to competing entities.<sup>68</sup> Contrary to AT&T’s understanding, however, that fundamental insight compels the conclusion that *all* providers that use the PSTN to originate or terminate calls should be subject to the same intercarrier compensation obligations, regardless of whether they use IP technology or circuit-switched technology. VoIP providers are providers of interstate communications services, and, to the extent they use the PSTN to terminate or originate communications, they should have the same obligations as other interstate interexchange carriers, in order to avoid arbitrage and artificial advantages.

AT&T is wrong when it states that such a policy of regulatory parity will create disincentives for investment in IP-enabled services; to the contrary, such even-handed treatment

---

<sup>66</sup> *NPRM* ¶ 61.

<sup>67</sup> *See, e.g.*, Time Warner Inc. Comments at 15-16; CWA Comments at 18-19; DJE Teleconsulting, LLC (“DJE”) Comments at 5; General Communication, Inc. (“GCI”) Comments at 15; Independent Telephone & Telecommunications Alliance (“ITTA”) Comments at 6-7; NASUCA Comments at 70-73; Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”) Comments 2-6; Ohio PUC Comments at 34-35.

<sup>68</sup> AT&T Comments at 24.

simply removes an artificial, regulatory incentive to invest in a particular technology, a result AT&T itself claims should be avoided.<sup>69</sup> Any other result would lead to providers using IP technology not because it is more efficient or offers more value to customers but simply because, by using that particular technology, they could avoid paying for the costs they impose on the PSTN.

As the Commission explained in a related context, there is no sound policy reason to create such a regime. The Commission would merely be creating “artificial incentives for carriers to convert to IP networks. Rather than converting at a pace commensurate with the capability to provide enhanced functionality, carriers would convert to IP networks merely to take advantage of the cost advantage [of avoiding access charges] . . . . IP technology should be deployed based on its potential to create new services and network efficiencies, not solely as a means to avoid paying access charges.”<sup>70</sup> BellSouth fully agrees with that analysis, which applies equally here. It is no answer to simply allege that current access charges are “bloated” or “distorted” or that VoIP providers may purchase business lines or pay reciprocal compensation and so therefore don’t get an entirely “free ride.”<sup>71</sup> In the first place, AT&T’s charges are incorrect. This Commission has worked long and hard on, and the industry itself has participated in, significant efforts to streamline and improve the interstate access charge regime.<sup>72</sup> As the Commission noted in adopting the *CALLS Order*:

---

<sup>69</sup> *Id.*

<sup>70</sup> *Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361, *Order*, 19 FCC Rcd 7457, 7469, ¶ 18 (2004).

<sup>71</sup> AT&T Comments at 22-28.

<sup>72</sup> See Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board On Universal Service, CC Docket Nos. 96-262, 94-1, 99-249 & 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-BellSouth’s Reply Comments  
WC Docket Nos. 04-36 and 04-29  
July 14, 2004

We adopt the CALLS Proposal as it relates to local switching, trunking, and special access. We believe the proposal is in the public interest because it provides an immediate reduction in switched access rates that will result in lower long-distance charges for consumers, while also simplifying the current price cap access charge regime. Adoption of the CALLS Proposal will result in an immediate \$2.1 billion reduction in switched access usage charges. All price cap LECs will make the CALLS Proposal's switched access usage charge reductions on July 1, 2000.<sup>73</sup>

Second, even if AT&T were correct, the proper way to address this issue is not by the Commission creating an arbitrage opportunity for VoIP providers, but by the Commission completing overall intercarrier compensation reform and rate restructuring in a rational way that applies to them and all other providers of equivalent interstate services. The Commission should continue its efforts to reform the current system. In this regard, the Commission should reject arguments imposing reciprocal compensation as an appropriate compensation mechanism prior to resolving the pending intercarrier compensation proceeding for all types of interstate communications.<sup>74</sup> As the National Exchange Carrier Association ("NECA") explains, reciprocal compensation rates currently encourage uneconomic arbitrage.<sup>75</sup> The Commission clearly has the authority to impose an alternative, even-handed regime, and sound public policy compels it to do so now.

---

1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) ("CALLS Order").

<sup>73</sup> *Id.* at 13025, ¶ 151.

<sup>74</sup> *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92.

<sup>75</sup> NECA Comments at 9-13.



1. The Commission should also allow for fraud prevention

BellSouth agrees with SBC that the Commission should permit carriers to adopt effective mechanisms for preventing fraud in the implementation of a declaration that interstate access charges are currently applicable to IP-enabled services that originate or terminate in circuit-switched format on the PSTN.<sup>76</sup> A mere declaration, without clarification of authorized fraud prevention measures, allocation of the burden of proof, and a commitment to enforce its rules, will not prevent providers from engaging in unlawful access charge avoidance schemes.<sup>77</sup> It is imperative that as part of the unified intercarrier compensation regime that takes into account traffic delivered from or to the PSTN by IP-enabled services providers, the Commission establishes appropriate and effective fraud prevention mechanisms.

2. In the meantime, the Commission should enforce its existing rules

AT&T and others continue to misconstrue the scope of the ESP exemption to the current access charge regime.<sup>78</sup> This Commission's decisions that provided ESPs with a limited exemption from the ordinary forms of access charges that would otherwise apply to them when calls are originated on the PSTN demonstrate fundamentally that Commission has the authority to require information service providers to pay access charges.<sup>79</sup> The Commission subsequently decided to provide a limited exemption to those providers from some access charges, thus

---

<sup>76</sup> SBC Comments at 80.

<sup>77</sup> *Id.*

<sup>78</sup> AT&T Comments at 22-23; Qwest Comments at 41-42.

<sup>79</sup> The Commission's decisions make plain that "enhanced service providers" are among the users of "access services." *MTS and WATS Market Structure*, CC Docket No. 78-72 Phase I, *Memorandum Opinion and Order*, 97 F.C.C.2d 682, 711, ¶ 78 (1983). *See Level 3 Communications LLC Petition for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(b)(1), and Rule 69.5(b)*, WC Docket No. 03-266, BellSouth Reply at 3-8, Reply Comments of SBC Communications at 4-13, Reply Comments of the Verizon Telephone Companies at 4-7 (filed Mar. 31, 2004).

waiving rules that would otherwise apply and therefore demonstrating that the Commission was and is empowered to require these providers to pay these charges.<sup>80</sup> Indeed, the Commission has made plain that it was continuing this narrow exemption because it believed that ESPs were using the PSTN in a manner different than IXC's, the traditional payers of access charges, and in fact were more like business users of the telephone network.<sup>81</sup> The Eighth Circuit agreed with that analysis, and expressly based its affirmance of the Commission on the conclusion that ISPs "do not utilize LEC services and facilities in the same way or for the same purposes as other customers who are assessed per-minute interstate access charges."<sup>82</sup> But as the *NPRM* itself explains, that logic does not apply in circumstances where IP-enabled service providers do use local circuit-switched networks in precisely the same way as traditional IXC's do. In those circumstances, the "cost of the PSTN should be borne equitably among those that use it in similar ways."<sup>83</sup>

As SBC explains, the original ESP exemption did not convert information service providers from being among the variety of users of access service into true "end users"; rather, they were merely treated as end users for pricing purposes.<sup>84</sup> And as Verizon points out, the Commission never intended the exemption to apply to the situation where a caller, whether or not a VoIP subscriber, uses an ordinary telephone to call a VoIP subscriber or where a VoIP subscriber uses an IP telephone to reach a called party on the PSTN.<sup>85</sup> The PSTN end user in this example is not a customer of the ISP and is not receiving an information service; therefore

---

<sup>80</sup> See, e.g., *Access Charge Reform Order*, 12 FCC Rcd at 16132-33, ¶ 343.

<sup>81</sup> See *id.* at 16133, ¶ 345.

<sup>82</sup> *Southwestern Bell Tel Co. v. FCC*, 153 F.3d 523, 542 (8th Cir. 1998).

<sup>83</sup> *NPRM* ¶ 61.

<sup>84</sup> SBC Comments at 69-70.

<sup>85</sup> Verizon at Comments at 46-47.

the information service provider should have the same obligation to pay access charges on the PSTN leg of the call as any other user of a LEC's local switching facilities.<sup>86</sup> Both law and policy require that all users of the PSTN pay the same interstate rates when they use the PSTN for the same interstate services, regardless of service technology.<sup>87</sup>

The Commission should therefore reject the arguments of commenters who state that IP-enabled services that are information services are not subject to access charges today, and should not be required to compensate LECs for their use of the PSTN in connection with IP-enabled services in the future.

**B. All IP-Enabled Service Providers Should Have Identical Universal Service Funding Obligations**

As the Commission has explained, contribution policies should “reduce[] the possibility that carriers with universal service obligations will compete directly with carriers without such obligations.”<sup>88</sup> In the Commission's words, “the public interest *requires* that, to the extent possible, carriers with universal service contribution obligations should not be at a competitive disadvantage in relation to [other] providers on the basis that they do not have such obligations.”<sup>89</sup> The Commission must apply the same universal service duties to IP-based services that use the PSTN as it imposes on their competitors that use more traditional technologies. Any other result would disadvantage one set of providers because of the technology they use and reduce support for universal service as more and more consumers

---

<sup>86</sup> SBC Comments at 70-71.

<sup>87</sup> *Id.* at 68-81; BellSouth Comments at 43-48.

<sup>88</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd 8776, 9183-84, ¶ 795 (1997) (“*First Universal Service Order*”).

<sup>89</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report to Congress*, 13 FCC Rcd 11501, 11565, ¶ 133 (1998) (emphasis added) (“*Report to Congress*”).

switch to IP-based services. The Commission should reject, and repudiate, efforts by carriers to foist the burden solely on so-called providers of “last mile” PSTN facilities.<sup>90</sup>

Those results are contrary to the Communications Act, which requires “sufficient,” “predictable,” and “nondiscriminatory” mechanisms to support universal service.<sup>91</sup> They are equally inconsistent with the Commission’s own prior determinations that universal service mechanisms should be technologically neutral, in order to allow the “marketplace to direct the advancement of technology and all citizens to benefit from such development.”<sup>92</sup>

The Commission has explicit statutory authority to extend universal service obligations to IP-enabled information services. Section 254(d) authorizes the Commission to require all providers of interstate “telecommunications” to “contribute to the preservation and advancement of universal service” if the “public interest so requires.” Because “information services” are, by statutory definition, provided “via telecommunications,”<sup>93</sup> underlying every interstate information service is an interstate “telecommunications” component sufficient to trigger section 254(d). The Commission should therefore require IP-enabled information service providers, as well as IP-enabled telecommunications services providers, to contribute to the Universal Service Fund when their service originates or terminates calls on the PSTN.

## **V. *COMPUTER INQUIRY* RULES MUST NOT APPLY TO THE PROVISION OF IP-ENABLED SERVICES**

As BellSouth urged in its comments, and as Verizon correctly states, the Commission must refrain from imposing any of the *Computer Inquiry* rules on providers of IP-enabled

---

<sup>90</sup> See, e.g., MCI Comments at 48-49.

<sup>91</sup> 47 U.S.C. § 254(b)(5), (d).

<sup>92</sup> *First Universal Service Order* 12 FCC Rcd at 8802, ¶ 49.

<sup>93</sup> 47 U.S.C. § 153(20). See Comcast Comments at 11-13; CompTel/ASCENT Comments at 6, n.11; Earthlink Comments at 15.

services.<sup>94</sup> Verizon observes correctly that these rules were predicated on the belief that, at the time, a single firm controlled access to all transmission services. They are thus totally inappropriate in the current communications environment in general, and in the broadband and IP-enabled services context in particular.<sup>95</sup> There is no evidence in this or any other administrative record compiled by the Commission that any LEC has inhibited the development of enhanced or information or IP-enabled service markets, or of competition within those markets. To the contrary, the application of regulatory constraints on BOC participation in enhanced service markets, and their continued application to BOC participation in information and IP-enabled services markets, have hindered and will continue to stymie the development of innovative services, thus making them more costly or leaving them undeveloped. There is simply no need to retain any vestige of the Commission's pre-1996 efforts to establish artificial market controls in order to encourage the development of IP-enabled services markets when the market is thriving, especially since this regulation has been overtaken by SIP technology that enables emerging inter-modal facilities competition from cable operators, power companies, wireless, and wireless broadband providers, and software providers who can offer voice services.<sup>96</sup>

As BellSouth explained in its comments and has reiterated above, ILECs are minority providers of the broadband transmission necessary to support IP-enabled information services, and the Commission has already determined that it would waive these requirements as to broadband-based information services offered by cable providers, the market leaders.<sup>97</sup> If these

---

<sup>94</sup> Verizon Comments at 21-24.

<sup>95</sup> *Id.*

<sup>96</sup> Scott Cleland, *Bell Legal Victory: Winning the Battle but Losing the War*, Precursor, June 18, 2004.

<sup>97</sup> BellSouth Comments at 14-23.

rules are not in the public interest as applied to the market leaders, there is no rational basis to continue to apply them to secondary players. Existing asymmetrical regulation has caused, and is continuing to cause, significant *harm* to all broadband consumers in the form of artificially increased prices. As BellSouth has demonstrated, in attempting to comply with the existing *Computer Inquiry* requirement to break out and offer a basic transmission service for each of its enhanced service offerings, the least costly approach in many instance is to segregate the regulated and non-regulated functions, a process that erodes entirely the efficiencies and benefits of the enhanced services that justified their development in the first place.<sup>98</sup> And as technology improves and permits the deployment of more efficient and more sophisticated network designs that integrate enhanced and basic functionalities, the cost of continued compliance with the legacy *Computer Inquiry* requirements increases sharply.<sup>99</sup>

The Commission itself stressed the burdensome nature of the *Computer* requirements in the context of their application to market leading cable providers. Among other things, these economic regulations require “radical surgery” by forcing carriers to “extract” a telecommunications service from every information service and to subject it to the common carrier requirements of Title II.<sup>100</sup> Imposition of the *Computer Inquiry* requirements on cable modem access providers, the Commission explained, would discourage facilities-based

---

<sup>98</sup> Letter from L. Barbee Ponder IV, Senior Regulatory Counsel-D.C., BellSouth Corporation, to Marlene Dortch, Secretary, FCC, CC Docket No. 02-33, *et al.*, at 2 (Apr. 20, 2004).

<sup>99</sup> *Id.*

<sup>100</sup> *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, GN Docket No. 00-185 & CS Docket No. 02-52, *Declaratory Ruling and Notice of Proposed Rulemaking*, 17 FCC Rcd 4798, 4825, ¶ 43 (2002) (“*Cable Modem Declaratory Ruling*”).

competition in both voice telephony and broadband services,<sup>101</sup> and “disserve the goal of Section 706 that we ‘encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing . . . measures that promote competition in the local telecommunications market or other regulatory methods that *remove barriers to infrastructure investment*.’”<sup>102</sup>

As SBC explains, the Commission must ensure competitive neutrality by adopting symmetrical rules for intermodal providers of competing services.<sup>103</sup> If it waives or forbears from the application of Title II obligations, including *Computer Inquiry* requirements, to cable modem service, it is legally obligated to forbear to the same extent from the application of these regulations to any IP-enabled service that might be characterized as a telecommunications service.<sup>104</sup>

The Commission should also reject the appeals of the New Jersey Department of the Ratepayer Advocate (“NJDR”) to “enforce separate affiliate requirements in order to regulate VoIP providers who are also providers of interexchange, local exchange, and cable services in lieu of imposing economic regulation.”<sup>105</sup> While the NJDR does not specify which requirements it seeks the Commission to enforce, BellSouth believes that promulgation of structural separation requirements in the wake of the 1996 Act in general, and in the context of IP-enabled services and broadband Internet access in particular, is completely unwarranted. Structural separation and separate affiliate requirements are amongst the most pernicious of economic regulation, and two decades ago the Commission noted, in the very order cited by the

---

<sup>101</sup> See *id.* at 4826, ¶¶ 46-47.

<sup>102</sup> *Id.* ¶ 47 (internal quotation marks omitted; ellipses in original; emphasis added).

<sup>103</sup> SBC Comments at 40, citing *USTA II*.

<sup>104</sup> *Id.*

<sup>105</sup> NJDR Comments at 19.

NJDRA, that these requirements can “decrease efficiency” and negatively affect a carrier’s ability to compete.<sup>106</sup> There is simply no factual record indicating the need to impose or reimpose any such requirements in the highly competitive IP-enabled and broadband communications services markets.

**VI. MINIMALLY INTRUSIVE CALEA, E911, DISABILITIES ACCESS, CONSUMER PROTECTION, AND TRS OBLIGATIONS SHOULD APPLY TO VOIP SERVICES**

BellSouth agrees with those commenters who state that the Commission can and should require certain IP-enabled information services to be subject to the same important public interest, consumer protection, and safety regulations that providers of both traditional and IP-enabled telecommunications services are.<sup>107</sup> BellSouth has a long history of cooperation with law enforcement, which has existed long before the promulgation of CALEA. BellSouth has been an active participant in the development of technical standards and products necessary to comply with CALEA and has devoted substantial time and resources to upgrade its network to deploy CALEA-compliant solutions. BellSouth remains committed to working together with the FBI, DOJ, and other members of the industry to develop standards for IP-enabled services that fall within the scope of CALEA. Moreover, BellSouth believes that the interest of safety requires all providers of VoIP, regardless of the technology used in providing the services, to provide E9-1-1 features and functionalities. BellSouth strongly encourages the Commission to use NENA for guidance on leading the industry in developing technical and operational solutions and standards that would allow VoIP and IP-enabled services to progress in implementing 911

---

<sup>106</sup> *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, CC Docket No. 79-252, *Fifth Report and Order*, 98 F.C.C. 2d 1191, 1197, ¶ 8 (1984) (noting the Commission’s commitment to minimum degree of separation necessary). This *Order* did not impose any structural separation requirements, and those that it refers to have been eliminated or waived; thus, the NJDRA’s citation to it is simply inapt.

<sup>107</sup> *See, e.g.*, CWA Comments at 16-24; NASUCA Comments at 47-57; Verizon Comments at 47-55.



capabilities in manageable stages.<sup>108</sup> BellSouth does not believe that the promulgation of best practices for IP-enabled services can be established before the technical solutions to a well-defined set of requirements are identified.<sup>109</sup> To assist in the adoption of VoIP E9-1-1 solutions, once NENA's has provided guidance, the Commission could authorize a set of best practices to be published through the NRIC-7 Focus Group 1, Subcommittees 1A and/or 1B, a committee chartered by the Commission. In sum, while BellSouth believes that the time is right for the Commission to begin considering E9-1-1 rules for VoIP and IP-enabled services, the Commission should not mandate any rules that do not take into consideration the NENA findings and recommendations.

The 1996 Act and FCC rules impose important consumer protections on telecommunications carriers that must apply to all VoIP services providers. Consumer protections designed to prevent slamming, enforce truth-in-billing and CPNI requirements, and ensure that customers are able to choose their long distance providers should be afforded to those customers using IP-enabled services.

Most of these commenters focus their attention, with respect to these topics, on VoIP, and these requirements should certainly adhere to VoIP. BellSouth believes that the Commission should adopt the following three-part test to determine whether any particular IP-enabled information service should subject to these requirements:

The service:

(1) includes a voice capability component; and

---

<sup>108</sup> NENA already has a working group, the VoIP/Packet Technical Committee Working Group - Migratory Definitions Working Group, that is currently addressing short-term proposals through industry participation in order to develop appropriate industry standards.

<sup>109</sup> For example, number portability poses a significant problem for E9-1-1 systems and non-911 operational support systems ("OSS's"). The assignment of the telephone numbers is critical to E9-1-1 systems. Accordingly, significant thought must be given to all aspects of E9-1-1 service before reaching final conclusions.

(2) is either:

- a. assigned a NANP telephone number, or
- b. can call a line assigned to a NANP telephone number; and

(3) either

- a. originates or terminates or both originates and terminates calls on the PSTN; or
- b. is a substitute for traditional voice communications.

A number of comments suggest one or more of the foregoing indicia.<sup>110</sup>

BellSouth generally agrees with those parties that argue that standards in these areas are best developed in the context of industry forums.<sup>111</sup> At the same time, however, providers of IP-enabled information services should not be subject, to the extent possible, to substantially less rigorous requirements than providers of functionally equivalent IP-enabled telecommunications services or circuit switched services. Therefore, the Commission should be prepared to use its statutory powers of forbearance to forbear from applying non-essential requirements to telecommunications service providers in order to equalize the playing field for both providers of IP-enabled information services and IP-enabled telecommunications services.

The Commission should take a similar approach with respect to other regulatory requirements that arise out of the provision of Title II common carrier services. Thus, if the Commission grants APCC's request to assure the passage of payphone ANI by providers of information services, the technical details should be resolved by the industry, and providers of

---

<sup>110</sup> See, e.g., Verizon Comments at 48; NCTA Comments at 9-11, 16-19; Time Warner Inc. Comments at 7-10; Association of Public-Safety Communications Officials-International, Inc. ("APCO") Comments at 6-7.

<sup>111</sup> See, e.g., Missouri Public Service Commission Comments at 10; CompTel/ASCENT Comments at 18-19; Consumer Electronics Association ("CEA") Comments at 6-7; Dialpad Comments at 20-21; Net2Phone, Inc. Comments at 22-25.

telecommunications services should not be subject to more burdensome requirements.<sup>112</sup>

Similarly, some IP-enabled service providers seek non-discriminatory access to utility poles and rights-of-way. Assuming these service providers meet the three-part test outlined above, they should theoretically have the same rights of access to utility poles and rights-of-way as entities that provide a similar service; however, the Commission must be especially sensitive to the disparate rate structures inherent in the Pole Attachments Act.<sup>113</sup> Prior to allowing such access, the Commission must undertake a thorough evaluation of its current rules implementing section 224, and forbear where necessary from statutory provisions grounded, as the outdated and irrelevant *Computer Inquiry* rules are, on an outdated one-wire, single provider view of the world. The assumption that LECs possess anywhere near the pole plant, market strength, or bargaining power of electric and other utilities covered by the Act is simply unsupportable.

**VII. THE COMMISSION SHOULD BE ESPECIALLY VIGILANT OF NETWORK SECURITY ISSUES AND ALLOW THE INDUSTRY TO CONTINUE TO REACH DEFINITIVE CONCLUSIONS ON INDUSTRY-WIDE SECURITY STANDARDS**

ATIS recently announced the unanimous approval and endorsement by its board of directors of two comprehensive technical work plans designed to produce a full suite of

---

<sup>112</sup> American Public Communications Council (“APCC”) Comments at 7-9.

<sup>113</sup> Telecommunications service providers are subject to different (higher) pole attachment rates than cable service providers. In addition, while pure information service providers are not covered by the Pole Attachments Act, cable service providers that offer cable modem service, an information service, get the benefit of the lower cable service rate. However, telecommunications service providers that offer equivalent broadband Internet access services must pay the higher telecommunications rate. Finally, even though electric utilities that provide telecommunications or cable services and own the majority of pole plant and thousands of miles of transmission facilities may have available to them the benefits and remedies afforded to CLECs and cable companies, ILECs currently lack similar rate protection and procedural remedies. Accordingly, the Commission should comprehensively reform its current pole attachments scheme to ensure an approach that treats all providers of voice communications the same by providing all providers rights and remedies.

standards supporting carrier-class VoIP and network security.<sup>114</sup> This is precisely the kind of mutual collaboration that the industry is capable of undertaking to achieve overarching network related standards, and that the Commission should continue to encourage. These work plans “clear[] the path for industry-wide consensus on open technical and operational standards supporting VoIP and network security.”<sup>115</sup> Nothing the Commission does in this proceeding should hamper or alter the consensus achieved within ATIS or the future work of the industry in building open standards based on a universal set of requirements. Indeed, the Commission should encourage ATIS to continue to develop a security operational guideline that identifies the functions and information necessary to manage security-related services throughout the network infrastructure. The Commission should endorse an IP-enabled services policy that favors a single approach for denial of service attacks and for an interoperable application layer protocol access control mechanism.

## **VIII. CONCLUSION**

The Commission should, among other things, use its ancillary Title I authority and its forbearance authority under Title II to craft an even-handed IP-enabled services regulatory regime as outlined above and in BellSouth’s comments and avoid the disparate treatment of competing technologies that might otherwise accompany the legacy “classification” of an IP-enabled service.

Respectfully submitted,

**BELLSOUTH CORPORATION**

By: /s/ Theodore R. Kingsley

---

<sup>114</sup> *Telecom Industry Releases VoIP and Network Security Work Plans*, Business Wire (June 18, 2004), at [http://biz.yahoo.com/bw/040618/185393\\_1.html](http://biz.yahoo.com/bw/040618/185393_1.html).

<sup>115</sup> *Id.*

Theodore R. Kingsley  
Richard M. Sbaratta  
Stephen L. Earnest

Its Attorneys

Suite 4300  
675 West Peachtree Street, N. E.  
Atlanta, Georgia 30375-0001  
(404) 335-0720

Date: July 14, 2004

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 14<sup>th</sup> day of July 2004 served the parties of record to this action with a copy of the foregoing **REPLY COMMENTS** by electronic mail and/or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties on the attached service list.

/s/ Juanita H. Lee  
Juanita H. Lee

**Service List WC Docket No. 04-36**

Gil M. Strobel  
Lawler, Metzger & Milkman, LLC  
2001 K Street, N. W.  
Suite 802  
Washington, D. C. 20006

Bryan R. Martin  
Chairman & Chief Executive Officer  
8X8, Inc.  
2445 Mission College Boulevard  
Santa Clara, CA 95054

Christy C. Kunin  
Larry A. Blosser  
Michael A. Schneider  
8X8., Inc.  
Gray Cary Ware & Freidenrich, LLP  
1625 Massachusetts Avenue, NW, Suite 300  
Washington, D. C. 20036

David Certner  
Director, Federal Affairs  
National Office - AARP  
601 E. Street, N. W.  
Washington, DC 20049

Colleen L. Boothby  
Andrew M. Brown  
AD Hoc Telecommunications  
Users Committee  
Levine, Blaszak, Block and Boothby, LLP  
2001 L Street, NW, Suite 900  
Washington, DC 20036

Paul W. Schroeder  
Vice President  
Policy, Research and Technology  
American Foundation for the Blind  
820 First Street, N. E., Suite 400  
Washington, DC 20002

Teresa K. Gaugler  
Assistant General Counsel  
Association for Local  
Telecommunications Services  
888 17<sup>th</sup> Street, NW, Suite 1200  
Washington, DC 20006

Walter Wolnik  
Kristopher Pacunas  
Cable Advisory Committee  
Amherst, Massachusetts Cable  
Advisory Committee  
Town Hall, 4 Boltwood Avenue  
Amherst, MA 01002

Albert H. Kramer  
Robert F. Aldrich  
American Public Communications Council  
2101 L Street, N. W.  
Washington, D.C. 20037-1526

Robert M. Gurs  
Director, Legal & Government Affairs  
APCO International  
1725 DeSales Street, N. W.  
Suite 808  
Washington, D. C. 20036

Christopher C. Kempley  
Maureen A. Scott  
Timothy J. Sabo  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

David A. Irwin  
Gregory V. Haledjian  
America's Rural Consortium  
Irwin, Campbell & Tannenwald, P.C.  
1730 Rhode Island Ave., N. W., Suite 200  
Washington, D. C. 20036-3101

David W. Carpenter  
AT&T Corp.  
Sidley Austin Brown & Wood LLP  
Bank One Plaza  
10 South Dearborn Street  
Chicago, Illinois 60603

David L. Lawson  
Richard D. Klingler  
James P. Young  
C. Frederick Beckner III  
AT&T Corp.  
Sidley Austin Brown & Wood LLP  
1501 K Street, N. W.  
Washington, D. C. 20005

Leonard J. Cali  
Lawrence J. Lafaro  
Judy Sello  
AT&T Corp.  
One AT&T Way, Room 3A229  
Bedminster, NJ 07921

Chuck Crowders  
Vice President, Government Affairs  
AVAYA, Inc.  
490 L'Enfant Plaza, S. W.  
Suite 511  
Washington, D. C. 20024

David L. Lawson  
James P. Young  
AVAYA, Inc.  
Sidley Austin Brown & Wood, LLP  
1501 K Street, N. W.  
Washington, D. C. 20005

Evan T. Leo  
Kellogg, Huber, Hansen, Todd  
& Evans, PLLC  
Sumner Square, 1615 M Street, N. W.  
Suite 400  
Washington, D. C. 20036-3209

Arthur H. Harding, Matthew D. Emmer,  
Craig A. Gilley, Steven J. Hamrick  
James N. Moskoqitz, David A. Konuch  
Bend, Cebridge, Insight, SusCom and Cable Ops  
Fleischman and Walsh, LLP  
1919 Pennsylvania Avenue, N. W.  
Suite 600  
Washington, D. c 20006

Joseph P. Benkert, P. C.  
Boulder Regional Emergency Telephone  
Service Authority  
Post Office Box 620308  
Littleton, CO 80162-0308



Michael E. Olsen  
Lara J. Leibman  
Robbin Johnson  
Cablevision Systems Corp.  
1111 Stewart Avenue  
Bethpage, NY 11714

Andrew D. Lipman  
Patrick J. Donovan  
Michael W. Fleming  
Cbeyond Communications, LLC.,  
GlobalCom, Inc. and MPower Communications Corp.  
Swidler Berlin Shereff Friedman LLP  
3000 K Street, N. W., Suite 300  
Washington, D.C. 20007

John F. Jones  
Vice President, Federal Government Relations  
CenturyTel, Inc.  
100 Century Park Drive  
Monroe, Louisiana 71203

Christopher W. Savage  
Telephone Charter Communications  
Cole, Raywid & Braverman, LLP  
1919 Pennsylvania Avenue N. W.  
Suite 200  
Washington, D. C. 20006

Jeffrey A. Campbell  
Technology and Communications Policy  
Cisco Systems, Inc.  
601 Pennsylvania Avenue, N. W.  
Washington, D. C. 20004

Cherie R. Kiser  
Angela F. Collins  
Cablevision Systems Corp.  
Mintz, Levin, Cohn, Ferris, Glovsky  
And Popeo, P.C.  
701 Pennsylvania Avenue, N. W.  
Suite 900  
Washington, D. C. 20004-2608

Karen Brinkmann  
Jeffrey A. Marks  
Thomas A. Allen  
CenturyTel, Inc.  
Latham & Watkins LLP  
555 Eleventh Street, N. W.  
Suite 1000  
Washington, DC 20004

Mark E. Barber  
Vice President Telephone  
Telephone Charter Communications  
12405 Powerscourt Drive  
St. Louis, Mo 63131

Alice E. Walker  
Scott B. McElroy  
Cheyenne River Sioux Tribe  
Telephone Authority  
Greene, Meyer & McElroy, O., C.  
1007 Pearl Street, No. 220  
Boulder, Colorado 80302

Timothy J. Simeone  
Cisco Systems, Inc.  
Harris, Wiltshire & Grannis LLP  
1200 Eighteenth Street, N. W.  
Suite 1200  
Washington, D. C. 20036

Agostino Cangemi  
Deputy Commissioner and General Counsel  
Mitchel Ahlbaum  
Senior Counsel for Regulatory & Legislative Affairs  
The City of New York  
75 Park Place, 9<sup>th</sup> Floor  
New York, New York 11201

Dennis J. Herrera  
Theresa L. Mueller  
Lisa S. Gelb  
City and County of San Francisco  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Joseph W. Waz, Jr.  
Comcast Corporation  
1500 Market Street  
Philadelphia, PA 19102

James R. Coltharp  
Comcast Corporation  
2001 Pennsylvania Avenue, N.W.  
Suite 500  
Washington, D. C. 20006

Terry S. Bienstock  
Thomas R. Nathan  
Comcast Cable Communications, Inc.  
1500 Market Street  
Philadelphia, PA 19102

John G. Sullivan  
Comcast Cable Communications, Inc.  
1500 Market Street  
Philadelphia, PA 19102

Karen Peltz Strauss  
Communication Service for the Deaf, Inc.  
KPS Consulting  
2120 L Street, N. W., Suite 400  
Washington, D. C. 20037

Communication Service for the Deaf, Inc.  
102 North Krohn Place  
Sioux Falls, SD 57103

The Computing Technology Industry  
Association  
4350 N. Fairfax Drive  
Arlington, VA 22203

Jonathan D. Lee  
Sr. Vice President, Regulatory Affairs  
Comptel/Ascent  
1900 M Street, N. W., Suite 800  
Washington, D. C. 20036

Robert J. Aamoth  
Edward A. Yorkgitis, Jr.  
Comptel/Ascent  
Kelley Drye & Warren LLP  
1200 19<sup>th</sup> Street, N. W., Suite 500  
Washington, D. C. 20036

William A. Rodger, Director Public Policy  
Daniel L. Johnson, Technology Counsel  
Computer & Communications Industry Assoc.  
666 11<sup>th</sup> Street, N. W., Sixth Floor  
Washington, D. C. 20001

Michael Petricone  
Vice President, Technology Policy  
Veronia O'Connell  
Director, Government Affairs  
Consumer Electronics Association  
2500 Wilson Boulevard  
Arlington, VA 22201

James Kirkland  
Susan J. Davis  
Praveen Goyal  
Covad Communications  
600 14<sup>th</sup> Street, N. W., Suite 750  
Washington, D. C. 20005

To-Quyen T. Truong  
J. G. Harrington  
Cox Communications, Inc.  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N. W.  
Suite 800  
Washington, D. C. 20036

Randolph L. Wu  
Helen M. Mickiewicz  
Ellen S. Levine  
People of the State of California and  
The California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Michael F. Altschul  
Carolyn W. Brandon  
Diane Cornell  
CTIA – The Wireless Association  
1400 16<sup>th</sup> Street, N. W.  
Suite 600  
Washington, D. C. 20036

Debbie Goldman  
George Kohl  
501 Third Street, N. W.  
Washington, D. C. 20001

Deborah Taylor Tate  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Tina W. Gabbrielli  
Randy Beardsworth  
United States Department of  
Homeland Security  
Nebraska Avenue Complex  
Washington, D. C. 20528

Tamar E. Finn, Esq.  
Jeffrey R. Strenkowski, Esq.  
DialPad Communications, ICG  
Communications, Inc, Qovia, Inc.  
And VoicePulse, Inc.  
Swidler Berlin Shereff Friedman, LLP  
Suite 300, 3000 K Street, N. W.  
Washington, D. C 20007

Donald J. Elardo  
DJE Teleconsulting, LLC  
9122 Potomac Ridge Road  
Great Falls, VA 22066

Donald Clark Jackson  
17720 Vista Avenue  
Monte Sereno, CA 95030-3245

John W. Butler  
Earl W. Comstock  
Alison Macdonald  
Earthlink, Inc.  
Sher & Blackwell LLP  
1850 M Street, N. W., Suite 900  
Washington, DC 20036

David N. Baker  
Vice President for Law and  
Public Policy  
EarthLink, Inc.  
1375 Peachtree Street  
Atlanta, Georgia 30309

Wendy Wigen  
Educause  
1150 18<sup>th</sup> Street, N. W.  
Suite 1010  
Washington, D. C. 20036

Susanna M. Zwerling  
Keith H. Gordon  
Michael Berlin  
Eliot Spritzer Attorney General of  
The State of New York  
120 Broadway  
New York, New York 10271

Lee Tien  
Seth Schoen  
Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco, CA 94110

Albert H. Kramer  
Jacob S. Farber  
The Enterprise Communications  
Association  
Dickstein Shapiro Morin &  
Oshinsky, LLP  
2101 L Street, N. W.  
Washington, D. C. 20037

Danny E. Adams  
Joan M. Griffin  
Tamara E. Connor  
The Enterprise Communications  
Association  
Kelley Drye & Warren LLP  
8000 Towers Crescent Drive  
Suite 1200  
Vienna, VA 22181

Francois D. Menard  
PO Box 203  
Pointe Du Lac, QC, Canada  
G0X 1Z0

Gregg C. Sayre  
Associate General Counsel  
Eastern Region  
Frontier and Citizens Communications  
180 South Clinton Avenue  
Rochester, New York 14646-0700

Marty W. Weinstein  
Regulatory Attorney  
General Communications, Inc.  
2550 Denali Street  
10<sup>th</sup> Floor  
Anchorage, Alaska 99503

Tine M. Pidgeon  
Lisa R. Youngers  
General Communication, Inc.  
1130 17<sup>th</sup> Street, NW  
Suite 410  
Washington, D. C. 20036

Glenn Gleixner, General Manager  
WVTF Public Radio  
Roanoke, Virginia

Paul Kouroupas  
Vice President, Regulatory Affairs  
Global Crossing Limited  
200 Park Avenue, 3<sup>rd</sup> Floor  
Florham Park, New Jersey 07932

Michael J. Shortley III  
General Counsel, North America  
Global Crossing Limited  
1080 Pittsford Victor Road  
Pittsford, New York 14534

Jeffrey H. Smith  
Chairman of the Board of Directors  
GVNW Consulting, Inc.  
Vice President-Division Manager  
Western Region  
8050 SW Warm Springs Street, Suite 200  
Tualatin, Oregon 97062

Christine F. Ericson  
Deputy Solicitor General  
Special Assistant Attorney General  
Illinois Commerce Commission  
160 N. LaSalle, Suite C-800  
Chicago, Illinois 60601

Jan F. Reimers  
President  
ICORE, Inc.  
326 S. 2<sup>nd</sup> Street  
Emmaus, PA 18049

Deborah Rudolph  
Manager, Technology Policy  
IEEE-USA CCIP  
1828 L Street, N. W.  
Washington, DC 20036

John Ridgway  
Denis Rosauer  
Iowa Utilities Board  
350 Maple Street  
Des Moines, Iowa 50319

Jonathan Jacob Nadler  
Angela Simpson  
Information Technology Association  
Of America  
Squire, Sanders & Dempsey, LLP  
1201 Pennsylvania Avenue, N. W.  
P. O. Box 0407  
Washington, D. C. 20044

Gerard J. Duffy  
Interstate Telcom Consulting, Inc.  
Blooston, Mordkofsky, Dickens,  
Duffy & Prendergast  
2120 L Street, NW (Suite 300)  
Washington, D. C. 20037

Rhett Dawson  
President  
Information Technology Industry Council  
1250 I Street, N.W.  
Suite 200  
Washington, DC 20005

David W. Zesiger  
Executive Director  
The Independent Telephone &  
Telecommunications Alliance  
1300 Connecticut Avenue, N.W.  
Suite 600  
Washington, D. C. 20036

Donn T. Wonnell  
Counsel for ITTA  
2925 Kitchum's Pond Road  
Williamsburg, Virginia 23185

Maryls R. Davis  
E911 Program Manager  
King County E911 Program Office  
7300 Perimeter Road South, Room 129  
Seattle, WA 98108-3848

William P. Hunt, III  
Cindy Z. Schonhaut  
Level 3 Communications LLC  
1025 Eldorado Boulevard  
Broomfield, CO 80021

John T. Nakahata  
Charles D. Breckinridge  
Level 3 Communications LLC  
Harris, Wiltshire & Grannis LLP  
1200 Eighteenth Street, N.W.  
Suite 1200  
Washington, D.C. 20036

Charles Mathias  
Director-Policy  
Lucent Global Government Affairs  
1100 New York Avenue, NW  
Suite 640 West Tower  
Washington, D.C. 20005

Martina Bradford  
Tom W. Davidson  
Phil Marchesiello  
Lucent Technologies, Inc.  
Akin Gump Strauss  
Hauer & Feld LLP  
1333 New Hampshire Avenue, N.W.  
Washington, DC 20036

Thomas L. Welch, Chairman  
Sharon Reishus, Commissioner  
Maine Public Utilities Commission  
242 State Street  
18 State House Station  
Augusta, Maine 04333-0018

Henry G. Hultquist  
Alan Buzacott  
Lawrence E. Fenster  
Karen M. Johnson  
Kecia B. Lewis  
MCI, Inc.  
1133 19<sup>th</sup> Street, N. W.  
Washington, DC 20036

Mark D. Schneider  
Marc A. Goldman  
Jenner & Block LLP  
601 13<sup>th</sup> Street, N.W.  
Washington, DC 20005

Paula H. Boyd  
Marc Berejka  
Microsoft Corporation  
1401 Eye Street, N.W., Suite 500  
Washington, D.C. 20005

Scott Blake Harris  
Microsoft Corporation  
Harris, Wiltshire & Grannis LLP  
1200 Eighteenth Street, N. W.  
Suite 1200  
Washington, D. C. 20036

Burl W. Haar  
Executive Secretary  
State of Minnesota Public  
Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
Saint Paul, Minnesota 55101-2147

Natelle Dietrich  
Marc D. Poston  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, Mo 65102

Jeanine Poltronieri  
Director, Telecommunications Strategy  
And Regulation  
Motorola, Inc.  
1350 I Street, N. W., Suite 400  
Washington, D. C. 20005-3304

NASUCA  
8300 Coleville Road, Suite 101  
Silver Spring, MD 20910

Regina Costa  
Telecommunications Research Director  
The Utility Reform Network (TURN)  
711 Van Ness Avenue, Suite 350  
San Francisco, CA 94102

Janine L. Migden-Ostrander  
David C. Bergmann  
Terry L. Etter  
Ohio Consumers' Counsel  
10 West Broad Street  
Suite 1800  
Columbus, Ohio 43215-3485

Philip F. McClelland  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101

Dian P. Callaghan  
Administrative Director  
Colorado Office of Consumer Counsel  
1580 Logan Street, Suite 740  
Denver, CO 80203

Nicholas P. Miller  
Matthew C. Amers  
Gerard Lavery Lederer  
Local Government Coalition  
Miller & Van Eaton, PLLC  
Suite 1000  
1155 Connecticut Avenue, N. W.  
Washington, D. C. 20036

Susan Grant  
Vice President, Public Policy  
National Consumers League  
1701 K Street NW, Suite 1200  
Washington, D.C. 20006

Howard J. Symons  
Tara M. Corvo  
Christopher R. Bjornson  
Mintz, Levin, Cohn, Ferris, Glovsky  
And Popeo, P.C.  
701 Pennsylvania Avenue, N.W.  
Washington, D. C. 20004

Daniel L. Brenner  
Neal M. Goldberg  
National Cable & Telecommunications  
Association  
1724 Massachusetts Avenue, NW  
Washington, D. C. 20036

Andrew D. Lipman  
Patrick J. Donovan  
Michael W. Fleming  
National Cable & Telecommunications  
Association  
Swidler Berlin Shereff Friedman LLP  
3000 K Street, N.W., Suite 300  
Washington, D. C. 20007



Paul M. Schudel, No. 13723  
James A. Overcash, No. 18627  
The Nebraska Rural Independent Companies  
Woods & Aitken LLP  
301 South 13<sup>th</sup> Street, Suite 500  
Lincoln, Nebraska 68508

Richard A. Askoff  
Clifford Rohde  
National Exchange Carrier  
Association, Inc.  
80 South Jefferson Road  
Whippany, New Jersey 07981

James R. Hobson  
NENA  
Miller & Van Eaton, PLLC  
1155 Connecticut Avenue, N. W.  
Suite 1000  
Washington, D.C. 20036-4320

Cherie R. Kiser  
Angela F. Collins  
Net2Phone, Inc.  
Mintz, Levin, Cohn, Ferris, Glovsky  
And Popeo, P.C.  
701 Pennsylvania Avenue, N.W...  
Suite 900  
Washington, D. C. 20004-2608

Elana Shapochnikov  
Net2Phone, Inc.  
520 Broad Street  
Newark, NJ 07101-3111

Frederick F. Butler  
Connie O. Hughes  
Jeanne M. Fox  
Carol J. Murphy  
Jack Alter  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Karen Peltz Strauss  
KPS Consulting  
2120 L Street, N.W.  
Suite 400  
Washington, D. C. 20007

Seema M. Singh, Esq.  
Ratepayer Advocate  
NJ Division of the Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P. O. Box 46005  
Newark, New Jersey 07101

Shana Knutson  
Nebraska Public Service Commission  
1200 N Street, Suite 300  
Lincoln, Nebraska 68508

Virgil Roger, Esq.  
Counsel  
nexVortex, Inc.  
11428 Nightstar Way  
Reston, Virginia 20194

Governor Brad Henry  
Governor Mike Rounds  
Diane Duff  
Ron Teixeira  
National Governors Association  
444 North Capitol Street, NW  
Suite 267  
Washington, D. C. 20036

Raymond L. Strassburger  
Senior Counsel & Vice President  
Global Government Relations  
101 Constitution Avenue, N. W. 325E  
Washington, D. C. 20001

L. Marie Guillory  
Daniel Mitchell  
National Telecommunications  
Cooperative Association  
4121 Wilson Boulevard, 10<sup>th</sup> Floor  
Arlington, VA 22203

Jaclyn A. Brilling  
State of New York  
Department of Public Service  
Three Empire State Plaza  
Albany, NY 12223-1350

Philip L. Malet  
Carlos M. Nalda  
Nuvio Corporation  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036

Thomas M. Sullivan  
Eric E. Menge  
Office of Advocacy  
U. S. Small Business Administration  
409 3<sup>rd</sup> Street, S. W.  
Suite 7800  
Washington, D. C. 20416

Jim Petro  
Duane Luckey  
Steven T. Nourse  
Matthew J. Satterwhite  
Public Utilities Commission of Ohio  
Public Utilities Section  
180 East Broad Street  
Columbus, Ohio 43215-3793

Sandra Mattavous-Frye  
Elizabeth A. Noel  
Barbara L. Burton  
Joy M. Ragsdale  
Office of the People's Counsel  
For The District of Columbia  
1133 15<sup>th</sup> Street, N. W. , Suite 500  
Washington, D. C. 20005-2710

Stuart Polikoff  
Stephen Pastorkovich  
Jeffrey W. Smith  
OPASTCO  
21 Dupont Circle, NW  
Suite 700  
Washington, D. C. 20036

Jim Tobin  
Charles H. Kennedy  
Pac-West Telecomm, Inc.  
Morrison & Foerster LLP  
2000 Pennsylvania Avenue, NW  
Suite 550  
Washington, D. C. 20006

Staci L. Pies  
Vice President, Governmental and  
Regulatory Affairs  
PointOne  
6500 River Place Blvd.  
Building 2, Suite 200  
Austin, TX 78750

Jonathan Askin  
General Counsel  
Pulver.com  
115 Broadhollow Road  
Suite 225  
Melville, NY 11747

Andrew D. Crain  
Robert B. McKenna  
Daphne E. Butler  
Qwest Communications International, Inc.  
Suite 950  
607 14th Street, N. W.  
Washington, D. C. 20005

Roy E. Hoffinger  
Elizabeth A. Woodcock  
Qwest Communications International, Inc.  
Perkins Coie LLP  
Suite 700, 1899 Wynkoop Street  
Denver, CO 80202

Gregg C. Vanderheiden  
Judith E. Harkins  
RERE on Telecommunications Access  
C/o Gallaudet University  
800 Florida Avenue, NE  
Washington, DC 20002

David Cosson  
Rural Independent Competitive  
Alliance  
Kraskin, Moorman & Cooson, LLC  
2120 L Street, N. W.  
Washington, D. C. 20037

Caressa D. Bennett  
Howard S. Shapiro  
Joshua P. Zeldis  
The Rural Carriers  
Bennet & Bennet, PLLC  
1000 Vermont Avenue, N. W.  
10<sup>th</sup> Floor  
Washington, D. C. 20005

William T. Lake  
Lynn R. Charytan  
Brian W. Murray  
Alison H. Southall  
SBC Communications, Inc.  
Wilmer Cutler Pickering LLP  
2445 M Street, N.W.  
Washington, D.C. 20037-1420

Jack S. Zinman  
Gary L. Phillips  
Paul K. Mancini  
SBC Communications, Inc.  
1401 Eye Street, N.W.  
Washington, DC 20005

Kristopher E. Twomey  
Telecom/Internet Law and  
Regulatory Consulting  
Sonic.net  
2501 Ninth Street, Suite 102  
Berkeley, CA 94710

Jim Tauer  
SPI Solutions, Inc.  
1875 Old Alabama Road  
Bldg. 900, Suite 910  
Roswell, GA 30076

Richard Juhnke  
David Nall  
Norina Moy  
Sprint Corporation  
401 9<sup>th</sup> Street, N.W.  
Suite 400  
Washington, D.C. 20004

Sue D. Blumenfeld  
Angie Kroneberg  
Megan Anne Eden  
Sprint Corporation  
Willkie Farr & Gallagher LLP  
1875 K Street, N. W.  
Washington, D.C. 20006-1238

TCA, Inc.  
Telcom Consulting Associates  
1465 Kelly Johnson Blvd, Suite 200  
Colorado Springs, Co 80920

Lee G. Petro  
Telecommunications for the Deaf, Inc.  
Fletcher, Heald & Hildreth, PLC  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, Virginia 22209

Gabriel Garcia  
D. Esther Chavez  
C. Brad Schuelke  
Paul L. Singer  
The Office of the Attorney General  
Of Texas  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711-2548

Clarence A. West  
The Texas Coalition of Cities for  
Utility Issues  
1201 Rio Grande  
Suite 200  
Austin, Texas 78701

Derek R. Khlopin  
Grant E. Seiffert  
Telecommunications Industry  
Association  
2500 Wilson Blvd.  
Suite 300  
Arlington, Virginia 22201

Ben H. Lyon  
General Counsel  
Tellme Networks, Inc.  
1310 Villa Street  
Mountain View, CA 94041

Henk Brands  
John H. Longwell  
Aaron Futch  
Time Warner, Inc.  
Paul, Weiss, Rifkind, Wharton  
& Garrison, LLP  
1615 L Street, N. W.  
Washington, D. C. 20036

Steven N. Teplitz  
Vice President and General  
Counsel  
Time Warner, Inc.  
800 Connecticut Avenue, N. W.  
Washington, D.C. 20006

Thomas Jones  
Jonathan Lechter  
Time Warner Telecom  
Willkie Farr & Gallagher LLP  
1875 K Street, N. W.  
Washington, D. C. 20006

Mitchell F. Brecher  
Tracie Chesterman  
TracFone Wireless, Inc.  
Greenberg Traurig, LLP  
800 Connecticut Avenue, N. W.  
Suite 500  
Washington, D. C. 20006

Greg Abbott, Barry R. McBee  
Edward D. Burbach, Paul D. Carmona  
Marion Taylor Drew, Richard A. Muscat  
TX-CSEC  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711-2548

Brad Mutschelknaus  
Todd D. Daubert  
USA Datanet, Inc.  
Kelley Drye & Warren LLP  
1200 19<sup>th</sup> Street, N. W., Suite 500  
Washington, D C. 20036

James A. Bachtell, Esq.  
Angela J. Campbell, Esq.  
Institute for Public Representation  
Georgia University Law Center  
USCCB, et al.  
600 New Jersey Avenue, NW  
Washington, DC 20001

Laura H. Parsky  
Deputy Assistant Attorney General  
The United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Room 2213  
Washington, D. C. 20530

Michael L. Ciminelli  
Deputy Chief Counsel  
The United States Department of  
Justice  
Washington, D.C. 20537

Patrick W. Kelley  
Deputy General Counsel  
FBI – U.S. Department of Justice  
J. Edgar Hoover Building  
935 Pennsylvania Avenue, N.W.  
Room 7427  
Washington, D. C. 20535

James W. Olson  
Indra Shdev Chalk  
Michael T. McMenamin  
Robin E. Tuttle  
United States Telecom Association  
1401 H Street, N.W., Suite 600  
Washington, D.C. 20005-2164

Michael L. Ginsberg  
The Utah Division of Public Utilities  
Office of the Attorney General  
160 East 300 South  
P. O. Box 140857  
Salt Lake City, Utah 84114-0857

Jill M. Lyon  
Vice President & General Counsel  
Brett W. Kilbourne  
Director of Regulatory Services  
UTC/UPLC  
1901 Pennsylvania Avenue, N.W.  
Fifth Floor  
Washington, D. C. 20006

William M. Ojile  
Chief Legal Officer and Secretary  
Valor Telecommunications of  
Texas, L.P.  
201 E. John Carpenter Freeway  
Suite 200  
Irving , TX 75062

Gregory J. Vogt  
Valor Telecommunications of  
Texas, L. P. and Iowa  
Telecommunications Services, Inc.  
Wiley Rein & Fielding LLP  
1776 K Street NW  
Washington, DC 20006

D. Michael Anderson  
Vice President –External Affairs  
Iowa Telecommunicaitons Services, Inc.  
P. O. Box 1046  
Newton, Iowa 50208

Anthony M. Rutkowski  
Vice President for Regulatory Affairs  
VeriSign Communications Services Div.  
21355 Ridgetop Circle  
Dulles, VA 20166-6503

Brian Cute  
Director For Regulatory Policy  
VeriSign Government Relations  
1666 K Street, N. W., Suite 410  
Washington, D. C. 20006-1227

Peter Bluhm, Esq.  
Vermont Public Service Board  
112 State Street, Drawer 20  
Montpelier, Vermont 05620-2701

Geoffrey M. Klineberg  
Leo R. Tsao  
Verizon Telephone Companies  
Kellogg, Huber Hansen,  
Todd & Evans, PLLC  
Summer Square  
Suite 400, 1615 M Street, N. W.  
Washington, DC 20036-3209

Karen Zacharia  
Leslie V. Owsley  
Joshua E. Swift  
Verizon Telephone Companies  
1515 North Court House Road  
Suite 500  
Arlington, Virginia 22201

Peter Lurie  
Genral Counsel  
Virgin Mobile, USA, LLC  
10 Independence Blvd.  
Warren, NJ 07059

William Irby  
Virginia State Corporation  
State Corporation Commission  
Box 1197  
Richmond, VA 23218

Bruce D. Jacobs  
Glenn S. Richards  
David S. Konczal  
The Voice on the Net (Von) Coalition  
Shaw Pittman LLP  
2300 N Street, N.W.  
Washington, D. C. 20037-1128

William B. Wilhelm, Jr.  
Ronald W. Del Sesto, Jr.  
Vonage Holdings Corporation  
Swidler Berlin Shereff Friedmann LLP  
3000 K Street, N. W., Suite 300  
Washington, D. C. 20007

Gerard J. Duffy  
The Western Telecommunications Alliance  
Blooston, Mordkofsky, Dickens,  
Duffy & Prendergast  
2120 L Street, N. W. Suite 300  
Washington, D. C. 20037

Blaine Gilles, Ph.D  
Wiltel Communicaitons, LLC  
9525 W. Bryn Mawr, Suite 140  
Rosemont, IL 60018

Adam Kupetsky  
WilTel Communicaitons, LLC  
One Technology Center TC 15-H  
Tulsa, OK 74103

Peter A. Rohrbach  
David L. Sieadzki  
WilTel Communications, LLC  
Hogan & Hartson LLP  
555 13<sup>th</sup> Street, NW  
Washington, DC 20004

Amy Healy  
Director, Public Policy  
Yellow Pages Integrated Media Association  
Two Connell Drive, First Floor  
Berkely Heights, NJ 07922

Joel Bernstein  
Halprin Temple  
Yellow Pages Integrated Media Association  
1317 F Street, N. W  
Washington, DC 20004

Thomas M. Koutsy  
Vice President, Law and Public Policy  
1200 19<sup>th</sup> Street, N. W., Suite 500  
Washington, DC 20036

Carl Wayne Smith  
General Counsel  
Defense Information Systems Agency  
701 S. Courthouse Road  
Arlington, VA 22204

Hillary J. Morgan  
Trial Attorney Regulatory & International Law  
Defense Information Systems Agency  
701 S. Courthouse Road  
Arlington, VA 22204

Keith R. Alich, Lt. Col, USAF  
Attorney-Advisor  
Defense Information Systems Agency  
701 S. Courthouse Road  
Arlington, VA 22204

Gunnar Hellstrom  
Managing Director  
Omnitor AB  
Renathvagen 2  
SE 121 37 Johanneshov  
Sweden

Robert Bocher  
Technology Consultant  
Wisconsin Department of  
Public Instruction  
Box 7841  
Madison, WI 53707

John G. Rowland  
Governor of the State of Connecticut  
Office of the Governor  
State Capitol  
210 Capitol Avenue  
Hartford, Connecticut 06106

Matthew M. Polka  
President  
American Cable Association  
One Parkway Center  
Suite 212  
Pittsburgh, PA 15220

Christopher C. Cinnamon  
Nicole E. Paolini  
Emily A. Denny  
Cinnamon Mueller  
American Cable Association  
307 North Michigan Avenue  
Suite 1020  
Chicago, Illinois 60601

Dennis J. Herrera  
Theresa L. Mueller  
Lisa S. Gelb  
The City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102



Andrea J. Saks  
P. O. Box 445  
Medina, WA 98039

Bruce Kushnick, Chairman  
Tom Allibone, Director of Audits  
Teletruth  
826 Broadway, Suite 900  
New York, New York 10003

James J. Keenan, CEO  
Henrly Telephone Products  
55 Chastilian Drive  
Goleta, CA 93117

Michael Burke, General Manager  
Homaco  
188 West Randolph Street, Suite 1526  
Chicago, IL 60601

Michael C. Stephens  
President and CEO  
CBM of America, Inc.  
1455 West Newport Center Drive  
Deerfield Beach, FL 33442

Dr. Simin Cai, President  
NSG America, Inc.  
28 Worlds Fair Drive  
Somerset, NJ 08873

Klaus Bollmann  
President  
Nextus, Inc.  
101 Halmar Cove  
Georgetown, TX 78628

Aaron A. Bent  
Vice President Development  
Continuum Photonics, Inc.  
5 Fortune Drive  
Billerica, MA 01821

Michael A. Ross  
President  
Aculab USA, Inc.  
421 Oak Avenue  
Panama City, FL 32401

Brad E. Herr  
President  
AC Data Systems, Inc.  
806 West Clearwater Loop  
Suite C  
Post Falls, ID 83854

Sylvain Abitol  
CEO  
NHC Communications, Inc.  
5450 Cote-de-Liesse  
Montreal, Quebec H4P 1A5

William H. Luthy, President  
Packet Storm Communications, Inc.  
20 Meridian Road  
Eatontown, NJ 07724

Samuel D. Davis  
President  
Telesync, Inc.  
5555 Oakbrook Parkway  
Suite 100  
Norcross, GA 30093

Edgar M. Buttner  
President and CEO  
Coastcom  
1151 Harbor Bay Parkway  
Alameda, CA 94502-6511

J. P. Diestel  
Vice President Marketing  
Salira Optical Network Systems  
3920 Freedom Circle  
Santa Clara, CA 95054

Theodore Rich  
President and CEO  
Fiberguide Industries, Inc.  
1 Bay Street  
Stirling, NJ 07980

Joseph R. Verebelyi  
Executive Vice President  
Teledata Communications, Inc.  
10643 Widmer  
Lenexa, KS 66215

Daryl Ingalsbe  
President and CEO  
Independent Technologies, Inc.  
1142 Miracle Hills Drive  
Omaha, NE 68154

Dr. J. D. Evankow, Jr.  
President – FiberControl  
1208 Highway 34, Tower No. 1  
Aberdeen, NJ 07747

Ben Petro  
CEO  
Ultra DNS  
1000 Marina Blvd  
Suite 600  
Brisbane, CA 94004

Peter R. McIntyre  
Vice President Marketing  
And Sales  
Xecom, Inc.  
374 Turquoise Street  
Milpitas, CA 95035

Brian Paul  
CEO  
Actiontec Electronics, Inc.  
760 N. Mary Avenue  
Sunnyvale, CA 94085

Eric A. Norland  
President  
Norland Products, Inc.  
2540 Route 130, Suite 100  
Cranbury, NJ 08512

Robert J. Robbins  
President  
Electrodata, Inc.  
23020 Miles Road  
Bedford Heights, Ohio 44128

Laurence N. Wesson  
President  
Aurora Instruments, Inc.  
124 South Maple Street  
Ambler, PA 19002

Richard O. Coleman  
President and CEO  
NextGen Fiber Optics, LLC  
720 East Pete Rose Way, Suite 410  
Cincinnati, Ohio 45202

Warren T. Barker  
President  
Westronic Systems, Inc.  
Bay 1, 1715 27<sup>th</sup> Avenue, N. E.  
Calgary, Alberta T2E 7E1

ACUTA  
152 West Zandale Drive  
Suite 200  
Lexington, KY 40503

Alliance for Public Technology  
919 18<sup>th</sup> Street, NW  
Suite 900  
Washington, D. C. 20006

Callipso Corporation  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N. W.  
Suite 300  
Washington, D. C. 20007

Julie L. Soderna  
Citizens Utility Board  
208 South LaSalle Street  
Suite 1760  
Chicago, IL 60604

Commissioner Charles Davidson  
Federation for Economically  
Rational Utility Policy (FERUP)  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Inclusive Technologies  
37 Miriam Drive  
Matawan, NJ 07747

Monica Tranel  
Public Service Commission  
1701 Prospect Avenue  
P. O. Box 202601  
Helena, MT 59620-2601

Self Help for Hard of Hearing  
People (SHHH)  
7910 Woodmont Avenue  
Suite 1200  
Bethesda, MD 20814

Skype, Inc.  
Goldberg, Godles, Wiener & Wright  
1229 Nineteenth Street, N. E.  
Washington, D. C. 20036

Ronald P. LeFever  
WE Energies  
333 West Everett Street  
Room A 460  
Milwaukee, WI 53203 – 2046

Susan E. Dudley  
Jerry Ellig  
Mercatus Center at  
George Mason University  
3301 North Fairfax Drive, Suite 450  
Arlington, VA 22201

+Best Copy and Printing, Inc.  
The Portals, 445 12<sup>th</sup> Street, S. W.  
Room CY-B402  
Washington, D. C. 20554

+Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
The Portals, 445 12<sup>th</sup> Street, S. W.  
Room TW-A325  
Washington, D. C. 0554

**+ VIA ELECTRONIC FILING**